

DISCUSSION

Justa piratica – or rather Hobbes State of Nature on the High Seas?

KERSTIN PETRETTO — 30 October, 2014



A response to the [post by James Pattison](#)

James Pattison's argument points at the heart of the debate of the international fight against Somali piracy: Have Somali pirates acted on the basis of greed or grievance, and does the respective answer to this question entail a differentiated response? Put differently: Does piracy due to grievance make it more just than piracy committed due to greed?

Poverty and Injustice: Drivers for Piracy

James answer is clear: piracy can be justified, if certain criteria are being met: (1) just cause, (2) right intention, (3) last resort, (4) proportionality, and (5) discrimination. Although he does not deliver any hard evidence for it, James presumes, that these criteria are met by at least some Somali pirates; hence, they commit a just form of piracy and not an international crime. At the same time he argues that the international fight against Somali piracy is certainly also justified, because otherwise all forms of criminal piracy would have even more ground to blossom. James conclusion is: it is a just war on both sides, at least for some pirates. And yet to eradicate this nevertheless harmful activity, the fight against piracy must be restructured: efforts have to focus on the state of Somalia as such, to rebuild governance, to provide people with alternative livelihoods instead of using force against force.

I fully agree with this conclusion: in the long run, piracy needs to be tackled on land and not on the high seas with military means as this is only an intermediary suppression of symptoms of a wider problem (see [here](#) and [here](#)).

Poverty and Injustice: No excuse for Violence

Yet, the general argument James presents is not convincing. Violently attacking civilians, holding them hostage against their will for months and years, and to demand a ransom for their freedom and life cannot be justified simply because one is poor, feels treated unfair and unjustly by the world and sees no other alternative for himself at a certain point of time. Firstly, there *are* always alternatives. And secondly, suffering from poverty or injustice does not give people the moral right to use force against someone else to regain their personal justice.

Before I lay out my argument I want to be clear on the following: From what we have learned so far from Interviews, Court Rooms and Reports, there are some individuals who claim to have joined Somali pirate gangs, because they did not see any other alternative to cover the basic needs of themselves and their families. Some of them are fishermen who maintain that they could not live from fishing anymore, due to illegal fishing or toxic waste dumping, some might have even be forced to join pirate gangs to pay off their debts. Although hard evidence is missing in most cases I agree: there is a need to do something against these potential crimes, to improve the desperate situations of millions of Somali and provide them with a hopeful future.

However: Does their potential miserable situation in turn make the deeds of these specific pirates just? Can their actions be justified because they did not see another option to face their situation?

Firstly, on the question of potential alternatives: There are about 10 Million people living in Somalia, about 3000 of them became involved in piracy according to current estimates (see [here](#), Annex 1, Para 3). So it is exactly these 0,03% of the Somali population that did not have any other options at all to survive? Thousands of other Somalis have rather chosen to learn a different trade, to move to another region, or to emigrate even if living under the dire conditions of a refugee camp can be very humiliating. But it remains a valid and less violent alternative to becoming an armed kidnapper and hostage taker. Admittedly, it is much more difficult under the current circumstances in Somalia to become a politician, or an activist and to join the fight against injustice on a local or global level, to change the conditions under which Somalis live, but in turn, it is also possible that joining a pirate gang simply seemed the easiest way out at the time being.

Secondly, James article revolves around the question, which acts committed by a civilian person (without official legitimacy to the use of force) are supposed to be labelled as a crime and which acts can be regarded as just and morally permissible. Labelling certain actions as a crime has always been a matter of socio-political construction, of social conventions. Thereby, it is of course a matter of power. Those in power to speak and act can determine the discourse on criminalization and the subsequent laws and actions that follow. States have, throughout history, given different labels to piracy as they have to other crimes. Thus one can agree that laws, national or international, might not always be the right measure to judge over the moral permissibility of a certain action, in our case: maritime piracy.

Fighting Poverty and Injustice: The Hobbesian or the Kantian Way?

Yet the claim that poverty and starvation entails the right to harm other people because they are potentially, maybe even only to a very small extent, responsible for this misery, leads us straight back to Hobbes miserable state of nature where man is a wolf to man. The modern international legal system has fortunately helped us to evolve beyond this primitive stage – and the proclamation of a *justa piratica* would throw us straight back into it.

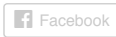
Rather Kant, and not Hobbes might help us out to reflect on the ethics of piracy. His categorical imperative says: “Act only on that maxim through which you can at the same time will that it should become a universal law.” Even if some pirates might act permissibly due to grievances and not to greed: Should their actions really become a universal law? Countering violence with violence only leads to more harm. No matter their underlining reasons, the pirates are liable for harming other people and need to be stopped. Stopping them however should also not and does not necessarily only involve

the use of force, but a holistic approach to help them and Somalia as a whole to overcome its misery.

Kerstin Petretto is Fellow at the Institute for Peace Research and Security Policy at the University of Hamburg.

ISSN 2510-2567

Tags: Just War Theory, Piracy, Use of Force



Related

On the Ethics of Piracy:
Challenging the Orthodox View
28 October, 2014
In "Discussion"

A Response to "Is the Islamic
State a State?"
10 June, 2016
In "Discussion"

Practitioner's Corner: Project
management – the missing part in
law books
9 December, 2015
In "Practitioner's Corner"

PREVIOUS POST



On the Ethics of Piracy:
Challenging the Orthodox View

NEXT POST



Haben die internationalen
Menschenrechte ein PR-Problem?

No Comment

Leave a reply

Logged in as ajv2016. Log out?

SUBMIT COMMENT

- ☐ Notify me of follow-up comments by email.
- ☐ Notify me of new posts by email.